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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,956	12/10/2001	David A. Tirrell	CITI530-1	2956
7590 02/13/2006				
Lisa A. Haile, J.D., Ph.D. GRAY CARY WARE & FREIDENRICH LLP Suite 1100 4365 Executive Drive San Diego, CA 92121-2133			EXAMINER ROOKE, AGNES BEATA	
			ART UNIT 1653	PAPER NUMBER
DATE MAILED: 02/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/015,956	Applicant(s) TIRRELL, DAVID A.	
	Examiner Agnes B. Rooke	Art Unit 1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 17, 18, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 17, 18 and 57 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 56 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final action is in response to the Applicant's reply filed on 11/04/2005.

The amendments to the claims filed on 11/04/2005 have been acknowledged. Claims 1-5, 17, 18, 56, and 57 are pending and currently under examination. Claims 6-16 and 19-55 are cancelled. New claim 57 has been added.

This application claims priority to 60/254,516 filed on 12/08/2000.

All Objections and Rejections not mentioned in this office action have been removed.

New Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1, 4, 5, 17, 18, and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 57 use the term "attached" where referring to a polyanionic domain attached to the subject protein. This term is indefinite because it is not certain how the domain is attached to the subject protein, and via what chemical linkage does the attachment occur.

Claims 1, 4, and 57 are rejected because the Applicant uses the term "about" when referring to the number of residues of amino acid in the peptide chain. The term

Art Unit: 1653

"about" is indefinite because it does not provide any specific structure of peptide and it leaves the claims ambiguous, since the peptide length and amino acids sequence is not certain.

Claim 5 is rejected because the "aspartic acid residues" lack antecedent basis to claim 1.

Claims 17 and 18 are improper because they depend from cancelled claim 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Petka et al. (U.S. 6,090,911).

For example, in Claim 1, drawn to a fusion protein, the polyanionic domain is comprised of **(Ala Gly)₀₋₈ – (Glu Gly)₁₋₄₀**.

In Claim 57, drawn to a fusion protein, the polyanionic domain comprised of:

(Ala-Gly)₀₋₈ – (Pro Asp Gly)₁₋₄₀

or

(Ala-Gly)₀₋₈ – (Asp-Gly)₁₋₄₀.

Art Unit: 1653

Petka et al's SEQ ID NO: 24 (1-28) has the following sequence, depicted with the instant sequences set forth below:

				5					10
Ala	Any	Any	Ala	Asp	Any	Asp	Ala	Any	Any
Gly			Gly	Glu		Glu	Gly		
Pro			Pro				Pro		

Ala	Gly	Ala	Gly	Glu		Gly	Glu	Gly	Glu	Gly
<i>Pro</i>	<i>Asp</i>	<i>Gly</i>	<i>Pro</i>	<i>Asp</i>		<i>Gly</i>				
Ala	Gly	Ala	Gly	Asp		Gly	Asp	Gly	Asp	Gly

				15					20
Ala	Asp	Any	Asp	Ala	Any	Any	Ala	Asp	Any
Gly	Glu		Glu	Gly			Gly	Glu	
Pro			Pro				Pro		

				25				28
Asp	Ala	Any	Any	Ala	Asp	Any	Asp	
Glu	Gly			Gly	Glu		Glu	
	Pro			Pro				

The instant sequence can be found throughout Petka et al.'s SEQ ID NO: 24, as exemplified above. Therefore, a fusion protein comprising in a terminal region a polyanionic domain depicted as amino acid sequences **(Ala Gly)₀₋₈ – (Glu Gly)₁₋₄₀**, **(Ala-Gly)₀₋₈ – (Pro Asp Gly)₁₋₄₀**, or **(Ala-Gly)₀₋₈ – (Asp-Gly)₁₋₄₀** is anticipated by Petka et al.

Objections to claims

Claims 2, 3, and 56 are objected to because they depend from rejected base claim 1.

Conclusion

The sequence -SEQ ID NO:1- SEQ ID NO:2- as depicted in claim 1 is novel and thus free of art.

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agnes Rooke whose telephone number is 571-272-2055. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-273-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.


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